

U.S. Patent Application No. 09/589,822
Reply to Office Action dated February 9, 2006

PATENT
450108-4457.1

REMARKS/ARGUMENTS

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Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the remarks herewith.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 8-11 are currently pending. Claim 8 is independent. Claims 1-7 and 9-122 have been previously canceled.

II. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 8-9 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,044,396 to Adams (hereinafter, merely "Adams") in view of U.S. Patent No. 5,666,293 to Metz et al. (hereinafter, merely "Metz").

Claim 8 recites, *inter alia*:

"A data multiplexing device comprising:

...a switch control means which selects, according to an input rate for said packet data strings, said plurality of buffer memories switchable by said switch means,

wherein the input rate is a bit rate used as an index in reference to an amount of encoded bits generated by an encoding controller."
(emphasis added)

As understood by Applicants, Adams relates to a system for utilizing the available bit rate in a constrained variable bit rate channel. The transmission of encoded information streams is controlled by limiting a variable bit rate to a predetermined maximum value. A multiplexer multiplexes the encoded information streams with a secondary information stream for transmission over the channel. The rate of the secondary information stream may be controlled by a transmission control protocol where the rate is adjusted by adjusting a transmit

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window of the protocol. Encoded information streams are given higher priority than the multiplexed information streams. A selector allocates the information streams in accordance with the priority allocation based on content of the information streams.

As understood by Applicants, Metz relates to a set-top terminal utilized in broadcast networks carrying a cyclic broadcast of a packetized data file containing the operating system. Periodically, a terminal will capture and store the broadcast operating system. The broadcast includes operating system files for a number of different terminal types and data identifying the current broadcast version of the operating system for each type of terminal. The terminal will check the broadcast version number for its terminal type operating system.

Applicants submit that Adams and Metz, taken alone or in combination, fail to teach or suggest the above identified features of claim 8. Specifically, Applicants submit Adams and Metz do not teach or suggest a switch control means which selects, according to an input rate for said packet data strings, said plurality of buffer memories switchable by said switch means, wherein the input rate is a bit rate used as an index in reference to an amount of encoded bits that are generated by an encoding controller, as recited in claim 8.

Therefore, Applicants submit that claim 8 is patentable.

III. DEPENDENT CLAIMS

The other claims are dependent from the independent claim, discussed above, and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

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CONCLUSION

In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, it is respectfully requested that the Examiner specifically indicate those portions of the reference, providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing remarks, it is believed that all of the claims in this application are in condition for allowance and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

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